

**United States  
Circuit Court of Appeals  
For the Ninth Circuit.**

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**SECTION SEVEN CORP., a corporation,  
Appellant,**

**vs.**

**CLIFFORD C. ANGLIM, Collector of Internal  
Revenue for the First District of California,  
Appellee.**

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**Transcript of Record**

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**Upon Appeal from the District Court of the United States  
for the Northern District of California,**

**Southern Division**

**FILED**

**OCT 10 1942**

**PAUL P. O'BRIEN,  
CLERK**



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the United States District Court for the North-  
ern District of California, Southern Division

No. 21651-W

SECTION SEVEN CORP., a corporation,  
Plaintiff,  
vs.

CLIFFORD G. ANGLIM, Collector of Internal  
Revenue for the First District of California,  
Defendant.

**COMPLAINT FOR RECOVERY OF TAXES**

Now comes plaintiff, and for cause of action  
against defendant alleges, as follows:

1. This action is brought to recover capital stock  
taxes erroneously and illegally assessed, collected  
and paid. The amount of this action, to-wit, the  
sum of \$1051.00, does not exceed the sum of \$10,-  
000.00. Said taxes were collected by the above  
named defendant, who was at the time of the col-  
lection of said tax, and now is, and at all times  
herein mentioned, was the United States Collector  
of Internal Revenue, for the First District of Cali-  
fornia. Jurisdiction of this Court is based upon  
the provisions of Section 24, Subdivision 20, of the  
Judicial Code as amended, Title 28 U. S. C. A. Sec-  
tion 41, subdivision 20.

2. Plaintiff herein is now and was at all times  
herein mentioned, a corporation organized and ex-  
isting under and [1\*] by virtue of the laws of the  
State of California.

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\*Page numbering appearing at foot of page of original certified  
Transcript of Record.

3. Within the time and in the manner provided by law, plaintiff filed with defendant a capital stock tax return under the provisions of Section 1200-1207 of the Internal Revenue Code of 1939, as amended, for the year ending June 30, 1939, showing a capital stock tax liability of \$1051.00. On August 30, 1939, plaintiff paid said tax to defendant in the amount of \$1051.00. Said tax was erroneously paid and collected for the reason that plaintiff was not carrying on or doing business for any part of the year ending June 30, 1939, and by reason thereof, plaintiff was not liable for the payment of any capital stock tax for the year ending June 30, 1939.

4. Within the time and in the manner and form required by law, and on November 18, 1939, a claim for refund was duly and regularly filed with the Collector of Internal Revenue for the First District of California, defendant above named, for the refund of the sum of \$1051.00, as and for capital stock tax erroneously and illegally assessed and collected. In said claim for refund, the ground relied upon for refund, was that set forth in this complaint, to-wit, that plaintiff was not carrying on or doing business for any part of the year ending June 30, 1939. Subsequent to the filing of said claim for refund, the Commissioner of Internal Revenue rejected said claim for refund in its entirety and on February 19, 1940, said Commissioner gave written notice of such rejection as provided by Statute. The rejection by the Commissioner of Internal

Revenue of said claim for refund to the extent of \$1051.00 was erroneous and improper.

5. Plaintiff is entitled to a refund of the said sum of \$1051.00 for the reason that plaintiff was not carrying on or doing business for any part of the year ending June 30, 1939, the year for which said capital stock tax, in the sum of \$1051.00 had been paid. [2]

6. No part of the sum of \$1051.00 erroneously assessed and collected from plaintiff, as aforesaid, or any interest on said sum has been repaid or refunded and the whole thereof, to-wit, the sum of \$1051.00 together with interest thereon, as provided by law, is now due and owing to plaintiff.

7. No assignment or transfer of said claim has ever been made and plaintiff is still the sole owner thereof, and plaintiff is justly entitled to the amount herein claimed from defendant and there are no just credits or offsets against said claim known to plaintiff.

Wherefore plaintiff prays judgment against defendant for the sum of \$1051.00 together with interest thereon from August 30, 1939, at the rate of 6% per annum to a date preceding the date of the refund check by not more than thirty days and together with plaintiff's costs of suit herein incurred.

LOUIS E. GOODMAN

LOUIS H. BROWNSTONE

Attorneys for Plaintiff.

[Endorsed]: Filed Sept. 23, 1940. [3]

[Title of District Court and Cause.]

### ANSWER

Comes now the defendant, Clifford G. Anglim, Collector of Internal Revenue for the First District of California, by his attorneys, Frank J. Hennessy, United States Attorney for the Northern District of California, and Esther B. Phillips, Assistant United States Attorney for the Notrhern District of California, and for answer to the complaint of the plaintiff alleges:

#### I.

Defendant admits the allegations contained in paragraph numbered 1 of the complaint, except that defendant specifically denies that the capital stock taxes involved in this action were erroneously and/or illegally assessed, collected and paid.

#### II.

Defendant admits the allegations contained in paragraph numbered 2 of the complaint.

#### III.

Defendant admits that plaintiff filed a timely capital [4] stock tax return for the year ended June 30, 1939, and paid capital stock taxes thereon in the amount and at the time stated in paragraph numbered 3 of the complaint.

Defendant denies all of the other allegations contained in said paragraph numbered 3 of the complaint.

## IV.

Defendant admits that plaintiff filed a timely claim for refund upon the grounds stated in paragraph numbered 4 of the complaint and that the Commissioner of Internal Revenue rejected the claim for refund at the time stated.

Defendant denies all of the other allegations contained in said paragraph numbered 4.

## V.

Defendant denies the allegations contained in paragraph numbered 5 of the complaint.

Further answering, defendant alleges that during the taxable period ended June 30, 1939, plaintiff was carrying on and doing business within the meaning of the applicable internal revenue laws and the regulations of the Secretary of the Treasury promulgated thereunder.

## VI.

Defendant admits that no part of the capital stock taxes paid by plaintiff for the period ended June 30, 1939, has been refunded to the plaintiff.

Defendant denies all of the other allegations contained in paragraph numbered 6 of the complaint.

## VII.

Defendant admits that plaintiff is the owner of the claim for taxes involved in this action.

Defendant denies all of the other allegations contained in paragraph numbered 7 of the complaint.

Wherefore, having fully answered the complaint of the plaintiff, defendant prays that this action be dismissed and that defendant have judgment against the plaintiff for his costs and disbursements herein.

FRANK J. HENNESSY  
United States Attorney  
ESTHER B. PHILLIPS  
Assistant United States  
Attorney  
Attorneys for Defendant.

[Endorsed]: Filed Dec. 6, 1940. [6]

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[Title of District Court and Cause.]

### DECISION

This is an action to recover capital stock taxes for the year ending June 30, 1939. The amount of tax, as shown by the tax return, \$1,051.00, was paid August 30, 1939. On November 18, 1939, a claim for refund was filed based on the claim that plaintiff was not carrying on or doing business during the tax year. The claim was rejected by the Commissioner of Internal Revenue and thereafter this action instituted.

It is the conclusion of the Court, from the evidence submitted upon the trial, that this case falls within the rules applied by the Circuit Court of Appeals of this Circuit in the case of Kettleman Hills

Realty Syndicate v. Commissioner of Int. Rev., 116 Fed. (2d) 382, and the case of United States v. Trust No. B. I. 35, 107 Fed. (2d) 22. It is, therefore, the conclusion of this Court that this action should be dismissed and that defendant have judgment against plaintiff for his costs [7] and disbursements herein as prayed for.

It is so ordered.

Dated this 28th day of February, 1942.

/s/ FRANK H. NORCROSS

District Judge.

[Endorsed]: Filed Feb. 28, 1942. [8]

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[Title of District Court and Cause.]

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

The above entitled cause coming regularly on for trial on the 15th day of January, 1942, jury having been waived, the plaintiff appearing by its attorney, Louis Goodman, the defendant appearing by his attorneys, Frank J. Hennessy, United States Attorney for the Northern District of California, and Esther B. Phillips, Assistant United States Attorney, and evidence oral and documentary, having been received, and the cause having been argued and submitted, and the Court having rendered his

opinion on the law and the evidence, now makes the following

### Findings of Fact

#### I.

The plaintiff was duly incorporated under the laws of California in November, 1937, for the purpose of acquiring interests of tenants in common in Section 7, Township 20, Range 16 E. M. D. B. & M., Fresno County, California. The plaintiff acquired [9] said interests and issued stock therefor.

#### II.

On June 3, 1938, plaintiff made a lease of said interests to the Seaboard Oil Company of Delaware, whereby the lessee was granted the exclusive right to explore, drill for, produce, treat, sell, etc. all oil and gas, asphaltum and other hydrocarbons therein for the period of twenty years, and for as long thereafter as oil, gas, etc. continued to be produced. The lessee agreed to pay a royalty on all oil produced equal to 1/6th of its value, and a 1/6th part of the net proceeds of all gas produced and sold. The lease gave the lessor the option of receiving the oil royalty not in cash, but delivered in tanks on the leased premises, provided that 60 days' notice of the exercise of the option were given. The option could be exercised once during the year, and in the absence of exercise, the lessee would pay the royalties in cash.

### III.

Drilling was done, pursuant to the terms of the lease, and oil was found in September, 1938. The first royalties were paid in October, 1938. The option to receive oil was not exercised. Oil continued to be produced and by June 30, 1939, the plaintiff had received oil royalties amounting to \$29,409.29 and gas royalties amounting to \$22.35. Plaintiff received no other income save a nominal sum for rights of way given pursuant to the custom of the industry.

### IV.

The plaintiff filed its capital stock tax return for the year ending June 30, 1939, and paid a tax of \$1,051.00 to the defendant on August 30, 1939. On November 18, 1939, a claim for refund was made on the ground that plaintiff was not carrying on business during the year. It was thereafter rejected.

[10]

### V.

The corporate activities of the plaintiff Company were exercised through its officers and Board of Directors, and consisted chiefly in receiving royalties and distributing them as dividends to its stockholders. It had no regular employees, its expenditures consisted of miscellaneous expenditures for telephone and office supplies, taxes and fees of accountant and attorney.

From the foregoing findings of fact, the Court renders the following

#### Conclusions of Law

- (1) That plaintiff was doing business under the

rule applied in Kettleman Hills Syndicate v. Comm'r, 116 Fed. (2d) 382; United States vs. Trust No. B. I., 107 Fed. (2d) 22.

(2) That judgment should be entered for defendant, with costs.

FRANK H. NORCROSS

United States District Judge.

[Endorsed]: Filed Apr. 27, 1942. [11]

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In the District Court of the United States for the Northern District of California, Southern Division.

No. 21651-W

SECTION SEVEN CORP., a corporation,

Plaintiff,

vs.

CLIFFORD C. ANGLIM, Collector of Internal Revenue for the First District of California,  
Defendant.

### JUDGMENT

The above-entitled cause coming regularly on for trial on January 15, 1942, jury having been waived, and the cause having been argued and submitted, and the Court having rendered his opinion, and having made his findings of fact and conclusions of law, it is

Hereby Ordered, Adjudged and Decreed that the plaintiff is not entitled to recover the tax refund

demanded and judgment is hereby entered in favor of defendant with costs as may be taxed. Costs \$16.00.

FRANK H. NORCROSS

United States District Judge.

Dated: April 24, 1942.

[Endorsed]: Filed Apr. 27, 1942. [12]

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[Title of District Court and Cause.]

NOTICE OF APPEAL TO CIRCUIT  
COURT OF APPEALS

Notice Is Hereby Given that Section Seven Corp., a corporation, plaintiff above named, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the final judgment heretofore rendered in the above entitled action and entered in this action on April 27th, 1942, and from the whole thereof.

Dated: July 16th, 1942.

LOUIS E. GOODMAN

LOUIS H. BROWNSTONE

Attorneys for Plaintiff and

Appellant.

615 Russ Building

San Francisco, California

[Endorsed]: Filed July 18, 1942. [13]

[Title of District Court and Cause.]

### STIPULATION AS TO CONTENTS OF RECORD ON APPEAL

Now come the parties in the above entitled proceeding, by their respective counsel and make the following stipulation and agreement designating the contents of record on appeal.

For the purpose of the review herein the parties hereto hereby designate for inclusion in the record on appeal the following:

- (1) Docket entries of the proceedings Before the District Court.
- (2) Pleadings before the District Court.
- (3) Findings of Fact and Conclusions of [14] Law and Judgment of the District Court.
- (4) Opinion of the District Court.
- (5) Notice of Appeal.
- (6) Statement of evidence attached hereto and marked Exhibit A.
- (7) This stipulation designating the contents of the record on appeal.
- (8) Order of the District Court respecting the sending of the original exhibits to the Circuit Court of Appeals in lieu of copies thereof.
- (9) All exhibits introduced in evidence in the District Court.

It is further stipulated that the foregoing constitutes the complete record and all of the proceedings in evidence in the action and that no statement

of points on which appellant intends to rely need be filed.

Dated: July 17th, 1942.

LOUIS E. GOODMAN

LOUIS H. BROWNSTONE

Attorneys for Plaintiff

FRANK J. HENNESSY

Attorney for Defendant. [15]

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[Title of District Court and Cause.]

EXHIBIT A

STATEMENT OF EVIDENCE

The following is a statement of evidence in narrative form in the above entitled case.

This cause came on for hearing before Honorable Frank H. Norcross, District Judge, on January 15, 1942, at and in the City and County of San Francisco, State of California; Louis H. Brownstone was called as a witness on behalf of plaintiff and having been first duly sworn testified as follows:

I am the secretary of Section Seven Corp., the plaintiff in this action; the corporation was formed in November of 1937 and acquired the property situated in Fresno County, California, [16] known and described as Section 7, Township 20, South Range 16 East, M. D. B. & M.

Prior to the formation of the corporation and for many years the legal title to the property stood in

## Exhibit A—(Continued)

the name of the Mercantile Trust Company and subsequent to 1911, equitable title belonged to a number of different owners. Over a period of years, various of the owners died. A committee, which had been appointed by the owners in 1911 to direct the disposal of the property by Mercantile Trust Company, had dissolved by reason of the death of all of the members of the committee, so that title to the property was in a highly confused state. In order to clear title to the property, it was necessary to bring a partition suit. In that way, the corporation could acquire clear title and have the power to make a lease. The co-owners deeded their respective interests to the corporation and subsequent to the formation of this corporation, a lease, dated June 3, 1938, was entered into with the Seaboard Oil Company of Delaware.

Whereupon counsel for plaintiff offered in evidence, a lease between plaintiff and Seaboard Oil Company of Delaware dated June 3, 1938, as an exhibit for plaintiff, and without objection, the said document was received in evidence and marked plaintiff's Exhibit #1.

## Exhibit A—(Continued)

## PLAINTIFF'S EXHIBIT No. 1

## OIL AND GAS LEASE

by and between

SECTION SEVEN CORP., Lessor  
andSEABOARD OIL COMPANY OF DELAWARE,  
Lessee

Dated: June 3, 1938.

## OIL AND GAS LEASE

This Agreement, made and entered into this 3rd day of June, 1938, by and between Section Seven Corp., a California corporation, party of the first part, herein styled "Lessor", and Seaboard Oil Company of Delaware, a Delaware corporation, party of the second part, herein styled "Lessee",

Witnesseth:

That for and in consideration of the sum of Ten Dollars, lawful money of the United States of America, to the Lessor paid, and of other valuable considerations, the receipt of all of which is hereby acknowledged, and in consideration of the covenants and agreements hereinafter contained by the Lessee to be kept and performed, the Lessor has granted, leased, let and demised, and by these presents does grant, lease, let and demise unto the Lessee, its grantees, successors and assigns, the land and premises hereinafter described, with the sole

## Exhibit A—(Continued)

and exclusive right to the Lessee to explore for, drill for, discover, produce, extract, treat, transport, take, sell and otherwise dispose of generally and handle and turn to account for the sole use and benefit of the Lessee, all oil, gas, asphaltum and other hydrocarbons (and water for its operations upon said premises and other properties operated by the Lessee in the Coalinga-Guijarral Hills Area) from, and to store the same (together with products from other properties operated by Lessee in the Coalinga-Guijarral Hills Area) upon, said land during the term hereinafter provided, with the right of entry thereon at all times for said purposes, and to construct, use, maintain, erect, repair and replace thereon and to remove therefrom all wells, casing, tools, machinery, sump holes, tanks, storage, reservoirs, pipes, pipe lines, roads, garages, telephone, telegraph and electric lines, plants, buildings, structures, and all other improvements, fixtures and appliances of any nature or character whatsoever which the Lessee may desire in carrying on its business and operations on said land, or adjoining or neighboring premises operated by Lessee, with the further right to the Lessee or any of its subsidiaries to erect, maintain, operate and remove a refinery, topping plant and/or other plant or plants with all necessary appurtenances, for the refining and/or treatment and/or extraction of gasoline and/or other products from oil and/or gas produced from said land and/or other premises in the

## Exhibit A—(Continued)

vicinity of said land, including all rights necessary or convenient thereto, together with rights-of-way for passage over, upon and across, and ingress and egress to and from, said land, for any or all of the above mentioned purposes; provided, however, that the oil produced from the leased land be stored separately from and not commingled with the oil produced from other lands operated by the Lessee until such time as such oil shall be gauged and tested, and provided further, that no general crude oil refinery or tank farm shall be erected upon the leased land in which more than fifty per cent (50%) of the oil refined or stored is produced from land other than the leased land. The possession by the Lessee of said land shall be sole and exclusive, excepting only that the Lessor reserves the right to occupy said land or to lease the same for agricultural, horticultural, or grazing uses, which occupation and use shall be carried on subject to, and with no interference with, the rights or operations of the Lessee hereunder. The land which is subject to this lease is situated in the County of Fresno, State of California, and is described as follows, to wit:

All Section Seven (7), Township Twenty (20) South, Range Sixteen (16) East, M. D. B. & M., except the following:

Parcel 1. East 43.6 acres of that certain 92.22 acre lot, which would otherwise be the West Half (W $\frac{1}{2}$ ) of the Southwest Quarter

## Exhibit A—(Continued)

(SW $\frac{1}{4}$ ) of said Section 7, as shown on the official Township Plat filed with the Surveyor General's Office, San Francisco, California, February 28, 1855.

Parcel 2. Northeast Quarter (NE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ); North Half (N $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ); Southeast Quarter (SE $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 7.

To Have and to Hold the same unto the Lessee, its successors and assigns, for a term of twenty (20) years from and after the date hereof, and so long thereafter as oil or gas, or casinghead gas, or other hydrocarbon substances, or either or any of them, is produced therefrom.

In consideration of the premises it is hereby mutually agreed as follows:

1. Lessee shall pay Lessor as royalty on oil the equal one-sixth (1/6) part of the value of all oil produced, saved and sold from the leased premises, after making the customary deductions for temperature, water and b.s., computed at the market price posted and paid in the district in which the premises are located for oil of like gravity the day the oil is run into purchaser's pipe line or storage tank, and settlement shall be made by Lessee on or before the 25th day of each month for accrued royalties for the preceding calendar month. At Lessor's option exercised not oftener than once in any

## Exhibit A—(Continued)

one calendar year upon sixty (60) days previous written notice, Lessee shall deliver Lessor's royalty oil into tanks on the leased premises and store the same free of charge for thirty (30) days at Lessor's risk, provided that if said royalty oil shall not be removed by Lessor within said thirty (30) days, the Lessee may take and sell Lessor's royalty oil at said market price posted and paid on the day the Lessee shall sell such oil and if no such price shall then be posted and paid, at the reasonable value thereof. No royalty shall be due the Lessor for or on account of oil lost through evaporation, leakage or otherwise prior to the sale of the same or delivery to Lessor if royalty oil is being taken in kind.

2. For all gas produced, saved and sold from said land by Lessee, the Lessee shall pay as royalty the one-sixth (1/6) part of the net proceeds from the sale of such gas, but nothing herein contained shall be deemed to obligate the Lessee to produce, save, sell or otherwise dispose of gas from said land. For the purpose of having gasoline extracted from gas produced from said land, the Lessee may transport, or cause to be transported, to a gasoline extraction plant located either on said land or on other lands, all or any portion of such gas where it may be commingled with gas from other properties. Lessee shall meter such gas so transported from the land hereby leased and such meter readings, together with the results of content tests by recognized methods made at approximately regular intervals, at

## Exhibit A—(Continued)

least once every month, shall furnish the basis for computation of the amounts of gasoline and residue gas to be credited to this lease. The proportion of the gas credited to this lease which shall be used or consumed, or lost in the operations of any such plant, shall be free of charge, and Lessee shall not be held accountable to the Lessor for the same or for any royalty thereon. Lessee shall not be required to pay royalty for or on account of any gas used for repressuring any oil bearing formation which is being produced from by a wells or wells on the leased premises, even though such repressuring is done by injecting such gas into wells not situated on the leased premises. If the Lessee shall at any time be unable to sell the whole or any part of the dry gas produced from the leased lands and shall store such dry gas either in or on the leased lands or in or on other lands, the Lessor shall pay to the Lessee its proportionate part of the cost of transporting such gas to the place of storage and of the storage thereof at the time such stored gas shall be reproduced and sold, but such cost shall be deducted only from Lessor's royalty upon such stored dry gas so reproduced and sold. The Lessor shall be entitled to gas free of charge from any gas wells on the leased premises for all stoves and inside lights in the principal dwelling houses on said land by making its own connections at a point designated by Lessee, the taking and use of said gas to be at the Lessor's sole risk and expense at all times.

## Exhibit A—(Continued)

3. Any casinghead gasoline extracted from gas produced from said land shall, at the option of the Lessee, be returned to the oil produced therefrom and shall be treated as a part thereof, in which event the Lessor's proportionate part of the actual transportation and extraction costs shall be deducted from its oil royalty or paid to the Lessee if the Lessor shall be taking its oil royalty in kind; otherwise the Lessee shall pay to the Lessor as royalty for such extracted gasoline the equal one-sixth (1/6) part of the net proceeds of the sale thereof after deducting actual transportation and extraction costs. If the right to manufacture such gasoline or other products from said gasoline is contracted out by the Lessee to its subsidiaries or to others, and such right so to contract is hereby granted by Lessor to Lessee, Lessor shall receive as royalty one-sixth (1/6) part of the net receipts of the Lessee from such contract; provided, however, that such contract shall be bona fide and that the price contracted to be paid shall at the time of the making of such contract be reasonable under prevailing conditions affecting the industry. If there shall be no available market and/or no public or open market price for the gasoline at the place of extraction, then the Lessee shall be entitled to sell and/or dispose of all the gasoline at such price and on such terms as shall be fair and reasonable, but in no case shall settlement of royalty be at a less price than that obtained by the Lessee for its portion of the gasoline.

## Exhibit A—(Continued)

4. The Lessee shall not be required to account to the Lessor for, or pay royalty on, oil, gas, gasoline, or water produced by the Lessee from said land and used by it in operating the leased land, but it may use such oil, gas, gasoline and water free of charge.

5. It is expressly understood and agreed that the considerations expressed and/or referred to herein include all rental for the term hereof.

6. The Lessee agrees to commence drilling operations on said land within one year from the date this lease is executed and delivered (unless the Lessee has sooner commenced the drilling of an offset well on said land as herein provided) and to prosecute the same with reasonable diligence until oil or gas is found in paying quantities, or to a depth at which further drilling would, in the judgment of the Lessee, be unprofitable, or until said well shall be by Lessee abandoned; or Lessee may at any time within said period terminate this lease and surrender said land as hereinafter provided. In the event the Gatchell No. 2 well, located approximately 330 feet south and 330 feet east of the southwest corner of Section 7 aforesaid should be drilled by Lessee or by Petroleum Securities Company, a corporation, or jointly by Lessee and Petroleum Securities Company, to completion and such well should on a thirty (30) day production test produce oil in commercial quantities, then and in that event, but subject nevertheless to all the other terms, provisions and conditions hereof, within

## Exhibit A—(Continued)

ninety (90) days from and after said production test, Lessee shall commence operations for the drilling of a well on the property covered hereby located approximately 990 feet north and approximately 330 feet east of the southwest corner of said Section 7, and such well shall be deemed an offset well to said Gatchell No. 2 well.

7. If the Lessee shall elect to commence drilling operations on said land as provided in Paragraph 6 hereof and shall prosecute the same with reasonable diligence but oil or gas is not found in the first well drilled in paying quantities, or shall drill to a depth at which further drilling would in the judgment of the Lessee be unprofitable or until said well shall be abandoned by the Lessee, this lease shall nevertheless remain in full force and effect if within ninety (90) days after the abandonment of said first well the Lessee shall commence on said land drilling operations for a second well, and shall prosecute the same with reasonable diligence until oil or gas is found in paying quantities, or until the well is drilled to a depth at which further drilling would, in the judgment of the Lessee, be unprofitable, or until said well shall be abandoned by Lessee; and the Lessee shall in like manner continue its operations until oil or gas in paying quantities is found, but subject always to the terms and conditions hereof and with the rights and privileges to the Lessee herein given.

8. If oil or gas is found in paying quantities in

## Exhibit A—(Continued)

any well so drilled by the Lessee on said land, the Lessee, subject to the provisions hereof and to the suspension privileges hereinafter set forth, shall continue to drill additional wells on said land as rapidly as one string of tools working with reasonable diligence can complete the same, until there shall have been completed on said land as many wells as shall equal the total acreage then held under this lease divided by twenty, whereupon the Lessee shall hold all of the land free of further drilling obligations; provided, that the Lessee may defer the commencement of drilling operations for the second or any subsequent well for a period not to exceed ninety (90) days from the date of completion of the well last preceding it. The Lessee shall be entitled to drill as many additional wells on said land as it desires. Except as herein otherwise provided, it is agreed that the Lessee shall drill such wells and operate each completed well with reasonable diligence and in accordance with good oil field practice so long as such wells shall produce oil in paying quantities while this lease is in force as to the portion of said land on which such well or wells are situated, but in conformity with any reasonable conservation or curtailment program affecting the drilling of wells or the production of oil and/or gas from said land, which the Lessee may either voluntarily or by order of any authorized governmental agency (federal, state or local) subscribe to or be subject to. Drilling and producing

## Exhibit A—(Continued)

operations hereunder may also be suspended at all times when there is not being offered generally and paid to producers in the Coalinga-Guijarral Hills oil field for oil of the quality and in the quantity produced from said land a price of seventy-five (75) cents or more per barrel at the well, subject to the obligation of the Lessee to drill and produce offset wells as hereinafter provided when wells offset are being produced.

9. If any well completed by the Lessee shall fail to produce oil in paying quantities but shall produce gas in paying quantities, the Lessee shall not be obligated to conduct any further drilling operations on the land subject to this lease (except the drilling of offset wells as hereinafter provided), unless and until in its judgment the drilling of additional wells under the provisions of this lease is warranted in view of existing and anticipated market requirements. If the Lessee shall complete one or more wells on the land subject to this lease which shall fail to produce oil in paying quantities, but shall produce gas in paying quantities, the Lessee may either sell so much of said gas as it may be able to find a market for and pay the Lessor the royalty provided herein to be paid on the volume of gas so sold, or the Lessee may, if it so elects, suspend the operation of such gas well or wells, from time to time, and, if it is not then producing oil from any other well or wells on the land subject to this lease, it shall, for the period of such suspension,

## Exhibit A—(Continued)

pay or tender to the Lessor as rental monthly in advance a sum equal to eighty-five (85) cents per acre for so much of the land as is then held under this lease, such rental to continue until the production of either oil or gas is resumed and royalties are paid to the Lessor as above provided. If and when the Lessee shall have completed one well to each eighty (80) acres held under this lease and such wells shall not produce oil in paying quantities but shall produce gas in paying quantities, then the Lessee shall, notwithstanding any of the provisions of Paragraph 8 hereof or elsewhere contained in this lease to the contrary, hold all of the land free of further drilling obligations. The Lessee shall be entitled to drill as many additional gas wells on said lands as it desires. Nothing in this paragraph contained shall add to the number of wells which the Lessee is required to drill, or accelerate any of the Lessee's drilling operations hereunder.

10. There is hereby expressly reserved to the Lessor and as well to the Lessee, the right and privilege to convey, transfer or assign in whole or in part its interest in this lease or in the leased premises or in the oil and/or gas therein or produced therefrom, but if the Lessor shall sell or transfer any part or parts of the leased premises or any interest in the oil and/or gas under any part or parts thereof the Lessee's obligations shall not nor shall its burdens thereby be altered, increased

## Exhibit A—(Continued)

or enlarged, but the Lessee may continue to operate the leased premises and settle rents and royalties as an entirety.

11. In the event that a well is drilled upon adjoining property within 350 feet of the exterior limits of any land at the time retained by Lessee under this lease, and oil or gas is produced therefrom in paying quantities and the drilling requirements as specified in Paragraph 8 hereof are not then fully complied with and the owner of such well shall operate it and market the oil or gas produced therefrom, then the Lessee agrees that, if it is not then drilling upon the lands leased hereby and if such well shall not be offset by a well theretofore drilled or then drilling on the lands leased hereby, it will offset such well by the commencement of drilling operations upon the lands leased hereby within ninety (90) days after it is ascertained by the Lessee that the production of oil or gas from such well on adjoining property is in paying quantities and that the operator thereof is then producing and marketing the oil or gas produced therefrom, or within ninety (90) days after the completion of any well then drilling by the Lessee, whichever time shall be the later. Any such offset well shall be located on or near a line parallel with the common property boundary line and approximately 330 feet therefrom and shall be located at a distance from the intersection of said parallel line with a line drawn through the well to be offset and

## Exhibit A—(Continued)

perpendicular to said common property boundary line of not to exceed approximately 660 feet. Any such offset well shall be drilled to the same zone or zones from which the well to be offset is producing oil or gas in paying quantities, if the Lessee determines that such zone or zones would be productive of oil or gas in paying quantities in the offset well, otherwise to any zone or zones which the Lessee determines will produce oil or gas in paying quantities. For the purpose of satisfying any of the obligations imposed upon the Lessee by this lease such offset well or wells shall be counted and considered as any other well required to be drilled pursuant to this lease. Notwithstanding the foregoing provisions of this lease, but nevertheless subject to all the other terms, provisions and conditions of this lease, in the event any substantial area of lands immediately adjoining and within 1,000 feet of any exterior boundary of the lands leased hereby, and from which oil is being produced in paying quantities from the same zone or zones from which oil is then being produced by the Lessee hereunder, should be developed with more than one well producing oil or gas in paying quantities to each twenty (20) acres, then and in that event the Lessee shall develop a like area of the lands at that time subject to this lease and adjacent thereto to the same well density (i.e., with the same number of wells to each twenty (20) acres thereof) as such adjoining lands (the extent of such area and the

## Exhibit A—(Continued)

location thereof to be determined by the Lessee). Notwithstanding anything herein contained the Lessee shall not ever, in any event, be required to drill more than one well to each ten (10) acres of land subject to this lease as an average regardless of where drilled, and one offset well drilled pursuant to the provisions hereof may serve as an offset to two or more wells.

12. The obligations of the Lessee hereunder shall be suspended while the Lessee is prevented from complying therewith, in whole or in part, by strikes, lockouts, action of the elements, accidents, injunctions, rules and regulations of any Federal, State, Municipal or other governmental agency, or other matters or conditions beyond the control of the Lessee, whether similar to the matters or conditions herein specifically enumerated or not.

13. Water produced by the Lessee from the leased lands but not used by it in its operations hereunder, may be used by the Lessor at Lessor's cost, risk and expense for surface operations on said land.

14. The Lessee shall pay all taxes on its improvements and all taxes on its oil stored on the leased premises on the first Monday of March in each year, and five-sixths (5/6) of the taxes levied and assessed against the petroleum mineral rights in the land then retained by the Lessee. The Lessor agrees to pay all taxes on the land as such and on its improvements and on its oil stored on the leased land

## Exhibit A—(Continued)

and one-sixth (1/6) of the taxes levied and assessed against the petroleum mineral rights in the land then retained by Lessee. In the event the State, United States or any municipality levies a license, severance, production or other tax on or measured by the oil, gas or other hydrocarbons produced hereunder, then and in that event the Lessee shall pay five-sixths (5/6) of said tax and the Lessor shall pay one-sixth (1/6) of said tax. All taxes on land quitclaimed by Lessee shall be paid by Lessor.

15. The Lessor may at all reasonable times examine said land, the work done and in progress thereon, and the production therefrom, and may inspect the books kept by the Lessee in relation to the production from said land, to ascertain the production and the amount saved and sold therefrom. The Lessee agrees, on written request, to furnish to the Lessor copies of logs of all wells drilled by the Lessee on said land.

16. All the labor to be performed and materials to be furnished in the operations of the Lessee hereunder shall be at the cost and expense of the Lessee, and the Lessor shall not be chargeable with, or liable for, any part thereof; and the Lessee shall protect said land against liens of every character arising from its operations thereon, and shall hold the Lessor harmless from any thereof. The Lessee shall promptly notify the Lessor of any judicial proceedings brought to the attention of the Lessee affecting the leased land.

**Exhibit A—(Continued)**

17. Upon the written request of the Lessor, the Lessee agrees to fence all sump holes or other excavations to safeguard livestock on said land.

18. The Lessee shall have the right at any time and from time to time during the term hereof, and within ninety (90) days from and after the expiration of the term hereof, or any sooner termination of this lease, whether by reason of forfeiture, surrender or otherwise, to remove from said land any and all property of every kind, character and description placed upon said land by Lessee, and whether affixed thereto or not. Lessee agrees after termination of this lease to fill all sump holes and other excavations made by it.

19. If royalty oil is payable in cash, Lessee may deduct therefrom a proportionate part of the actual cost of treating unmerchantable oil produced from said premises to render same merchantable. In the event such oil is not treated on the leased land, Lessor's cash royalty shall also bear a corresponding proportionate part of the cost of transporting the oil to and from the treating plant. Nothing herein contained shall be construed as obligating the Lessee to treat oil produced from the leased land. If the Lessor shall elect to receive royalty oil in kind, such royalty oil shall be of the same quality as that removed from the leased land for the Lessee's own account, and if the Lessee's own oil shall be treated before such removal, the Lessor's oil will be treated therewith before delivery to the Lessor, and the

## Exhibit A—(Continued)

Lessor in such event will pay a proportionate part of the actual cost of treatment and transportation to and from the treating plant.

20. Upon the violation of any of the terms or conditions of this lease by the Lessee and the failure to begin to remedy the same within ninety (90) days after the written notice from the Lessor so to do, then, at the option of the Lessor, the Lessor may terminate this lease, and upon such termination all rights of the Lessee in and to said land shall be at an end, saving and excepting ten (10) acres surrounding each well producing oil or gas or being drilled, and saving and excepting any land upon which Lessee has constructed any storage tanks, buildings, pumping plants, refineries, topping plants, shops, water wells, gasoline or other extraction or treating plants, or any other improvements of any nature or character whatsoever, and saving and excepting rights-of-way necessary for Lessee's operations; provided, however, that the Lessee may at any time after such default, and upon payment of the sum of Ten Dollars (\$10.00) to the Lessor as and for fixed and liquidated damages, quitclaim to the Lessor all the right, title and interest of the Lessee in and to the leased land in respect of which it has made default, and thereupon all rights and obligations of the parties hereto, one to the other, shall cease and terminate as to the land quitclaimed.

21. All royalties and rents payable in money hereunder may be paid to the Lessor by mailing

## Exhibit A—(Continued)

or delivering a check therefor to the Lessor at 615 Russ Building, San Francisco, California, or at such other address as it may designate by notice in writing, provided however that in the event the Lessor shall assign or transfer any portion of its royalty to more than two persons, then such payments shall be made to Bank of America National Trust and Savings Association, California-Montgomery Branch, San Francisco, California, hereby designated by the Lessor as depositary. In such event the Lessor hereby grants to said depositary full power and authority in behalf of the Lessor, its successors and assigns, to collect and receipt for all sums of money due and payable from the Lessee to the Lessor hereunder. No change in the ownership of the land or minerals covered by this lease, and no assignment of rents or royalties, shall be binding on the Lessee until it has been furnished with satisfactory written evidence thereof.

22. Lessor hereby warrants and agrees to defend the title to the land herein described, and agrees that the Lessee, at its option, may pay and discharge any taxes, mortgages, or other liens or encumbrances (not made, done or suffered by the Lessee) now or hereafter existing, levied or assessed on or against the above described land; and, in the event it exercises such option, the Lessee shall be subrogated to the rights of any holder or holders thereof and may reimburse itself by applying to the discharge of any such mortgage, tax, or other lien or encumbrance, any royalty or rental accruing hereunder.

## Exhibit A—(Continued)

23. If and when any oil produced from the demised premises shall be unmarketable at the well at the price mentioned in Paragraph 8 hereof, the Lessor agrees in such case to take and receive its royalty in kind, and should it fail or refuse so to do, then the Lessee may sell the same at the best price obtainable, but at not less than the price the Lessee may be receiving for its own oil of the same quality.

24. The words "drilling operations" as used in this lease shall be held to mean any work or actual operations undertaken or commenced in good faith for the purpose of carrying out any of the rights, privileges or duties of the Lessee under this lease, followed diligently and in due course by the construction of a derrick and other necessary structures for the drilling of an oil or gas well, and by the actual operation of drilling in the ground.

25. On the expiration or sooner termination of this lease, the Lessee shall quietly and peaceably surrender possession of the land to the Lessor and deliver to it a good and sufficient quitclaim deed, and so far as practicable cover all sump holes and excavations made by the Lessee. Before removing the casing from any abandoned well the Lessee shall notify the Lessor of its intention so to do, and if the Lessor, within five (5) days thereafter, shall inform the Lessee in writing of the Lessor's desire to convert such well into a water well, and *and* for that purpose to retain and purchase casing therein, the Lessee will leave therein such amount of casing as the Lessor may require for said purpose, provid-

**Exhibit A—(Continued)**

ing such procedure is lawful and will not violate any rule or order of any official, commission or authority then having jurisdiction in such matters, and provided further that the Lessor pay to the Lessee fifty per cent (50%) of the original cost of the casing on the ground.

26. Notwithstanding anything herein contained, the Lessee may at any time quitclaim this lease in its entirety or, from time to time, quitclaim this lease as to any part or parts of the land covered hereby, and thereupon the Lessee shall be released from all further obligations and duties as to the land so quitclaimed, and all rentals and drilling requirements shall be reduced pro rata. All land quitclaimed shall remain subject to the easements and rights-of-way hereinabove provided for. Except as so provided, full right to the land so quitclaimed shall revest in the Lessor, free and clear of all claims of the Lessee, except that the Lessor, its successors or assigns, shall not drill any well on the land quitclaimed within four hundred (400) feet of any producing or drilling well retained by the Lessee.

27. If this lease shall be assigned as to a particular part or as to particular parts of the leased land, such division or severance of the lease shall constitute and create separate and distinct holdings under the lease of the several portions of the leased land as thus divided, and the holder or owner of each such portion of the leased land shall be required to comply with and perform the Lessee's obligations under

## Exhibit A—(Continued)

this lease for, and only to the extent of, its portion of the leased land, and performance thereof shall be sufficient to protect and validate this lease as to its portion of the leased land notwithstanding the obligations of the lease may not be fully performed as to another part or portion thereof. In any such case the provisions of Paragraph 26 hereof shall be applicable to the owner or holder of each such portion of the leased land. Any assignee of the Lessee as to a particular part or particular parts of the leased lands shall assume the performance of this lease with respect to the part or parts assigned.

28. There is attached hereto, marked Exhibit "A", a section plat showing thereon the proposed location of wells, and notwithstanding any of the other terms and conditions hereof, wells drilled on the land leased hereby in accordance with the express terms, provisions and conditions of this lease at the locations shown on said plat shall fully satisfy all obligations of the Lessee hereunder with respect to the location of wells for the exploration, development and protection from drainage of the leased land as long as said spacing plat is being followed in the drilling of wells upon adjacent lands.

Notwithstanding any of the terms, provisions and conditions of this lease, the Lessee shall be obligated at no time and in no event to operate more than one string of tools upon the land, from time to time, subject to this lease, allowing ninety (90) days between the completion of one well and the commencement of drilling operations on the next suc-

## Exhibit A—(Continued)

ceeding well, and the Lessor agrees that such one string of tools shall fully satisfy all obligations of the Lessee for the exploration, development and protection from drainage of the leased land.

No implied covenant for exploration, development, or protection from drainage, of the land from time to time, subject to this lease, shall be read into this lease requiring the Lessee to drill or to continue drilling on said land, or to produce oil or gas therefrom, or fixing the measure of diligence for drilling or production. The parties hereto agree that the express covenants contained in this lease cover completely all phases of the Lessee's obligations with respect to the leased land including, without limiting the generality of the foregoing, its obligations in regard to exploration, development and protection from drainage of any and all zones underlying the land subject to this lease, and that such express covenants shall alone define the obligations of the Lessee notwithstanding the fact that the Lessee shall, at any time, be operating adjoining lands for the production of oil or gas therefrom.

29. All notices herein provided for shall be in writing, and no such notice shall be sufficient unless it shall be enclosed in a sealed envelope, and said envelope deposited in the United States mail, either at San Francisco, California, or at Los Angeles, California, with postage thereon fully prepaid, registered and with return receipt requested, and addressed to the Lessor at 615 Russ Building, San Francisco, California, or to the Lessee at Subway

## Exhibit A—(Continued)

Terminal Building, Los Angeles, California (or to such other person or corporation at such address as the Lessee may hereafter designate by notice to Lessor). Either party may change such address by notice in writing given to the other party.

30. This lease and all its terms, conditions and stipulations shall extend to and be binding upon the successors and assigns of the parties hereto.

In Witness Whereof, the parties hereto have caused this agreement to be duly executed as of the date first hereinabove written.

[Seal] SECTION SEVEN CORP.

By LOUIS E. GOODMAN  
Pres.

By LOUIS H. BROWNSTONE  
Sec.

Lessor

[Seal] SEABOARD OIL COMPANY  
OF DELAWARE,

By C. P. WATSON  
Vice President.  
By C. E. TABER  
Assistant Secretary.

Lessee

Whereas, the Board of Directors of this corporation, Section Seven Corp., has authorized the execution by this corporation of that certain contract dated the third day of June, 1938, by and between Seaboard Oil Company of Delaware as first party and this corporation as second party, relating to

## Exhibit A—(Continued)

those certain lands situated in Fresno County, California, to wit:

All Section Seven (7), Township Twenty (20) South, Range Sixteen (16) East, M. D. B. & M., except the following:

Parcel 1. East 43.6 acres of that certain 92.22 acre lot, which would otherwise be the West Half (W $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of said Section 7, as shown on the official Township Plat filed with the Surveyor General's Office, San Francisco, California, February 28, 1855.

Parcel 2. Northeast Quarter (NE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ); North Half (N $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ); Southeast Quarter (SE $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 7;

Whereas, pursuant to said contract, this corporation, as lessor, has agreed to execute to Seaboard Oil Company of Delaware, as lessee, that certain oil and gas lease of the lands hereinabove described, a copy of which said oil and gas lease is attached to said contract marked Exhibit "B" thereto;

Whereas, said oil and gas lease has been presented to and read and considered by the Board of Directors of this corporation;

Whereas, the Board of Directors of this corporation deem the terms and conditions of, and the consideration for, said oil and gas lease to be for the

## Exhibit A—(Continued)

best interest of this corporation, and it is necessary and advisable that said oil and gas lease be executed by this corporation and by Seaboard Oil Company of Delaware and deposited in escrow with California Pacific Title and Trust Company, San Francisco, California, as escrow agent pursuant to the instructions set forth in paragraph 6 of said contract and so that said oil and gas lease may be delivered upon said contract being and becoming effective in accordance with the terms and conditions set forth in paragraph 6 of said contract:

Now, Therefore, Be It Resolved, that the President or Vice President and Secretary or Assistant Secretary of this corporation be and they are hereby authorized and directed to make, execute and deliver for and in behalf of this corporation and as its corporate act and deed, said oil and gas lease by and between this corporation, as lessor, and Seaboard Oil Company of Delaware, as lessee, of those certain lands situated in Fresno County, California, hereinabove more particularly described;

And Be It Further Resolved, that said oil and gas lease when so executed be deposited with California Pacific Title and Trust Company as escrow agent for delivery upon said contract hereinabove referred to being and becoming effective in accordance with the terms and conditions set forth in Paragraph 6 thereof.

Louis H. Brownstone, Secretary of Section Seven Corp., a California corporation, does hereby certify

## Exhibit A—(Continued)

that the foregoing resolution is a full, true and correct copy of a resolution duly adopted by the Board of Directors of said corporation on the 3rd day of June, 1938; that said resolution is in full force and effect and has not been altered, repealed or amended; that the foregoing oil and gas lease to which this certified copy of said resolution is attached is the oil and gas lease referred to in said resolution of the Board of Directors; that said oil and gas lease was executed by said Section Seven Corp. under authority of said resolution of the Board of Directors of said corporation and with the approval of sail oil and gas lease, including the principal terms of the transaction and the nature and amount of the consideration, by the written consent of shareholders entitled to exercise a majority of the voting power of said corporation, and that the Articles of Incorporation of said corporation do not require, on such proposal, the vote or consent of a larger proportion of the shareholders or the separate vote of a majority or a larger proportion of any class or classes of shareholders.

Witness my hand and the seal of said corporation this 9th day of June, 1938.

LOUIS H. BROWNSTONE  
Secretary,  
Section Seven Corp.

[Endorsed]: Filed Sep. 17, 1942.

EXHIBIT A



HONOLULU OIL CORPORATION

IDEAL SECTION SHOWING  
WELL SPACING  
PROGRAM  
GUIJARRAL HILLS UNIT AREA

SECTION CDB  
CROSS CDB  
TIE LINE CDB  
WELL CDB

Line Jan. 28, 1938  
Area, etc.  
B-253



## Exhibit A—(Continued)

Whereupon counsel for plaintiff offered in evidence, a copy of all of the minutes of the corporation covering the fiscal period for which the tax in question was imposed and without objection, said minutes were received in evidence and marked plaintiff's exhibit #2.

## PLAINTIFF'S EXHIBIT No. 2

## SECTION SEVEN CORP.

(Minutes)

Pursuant to notice duly given, a meeting of the Board of directors of Section Seven Corp. a California corporation, was held at the office of the corporation in San Francisco, California, on Monday, October 10, 1938, at the hour of 11 o'clock A. M. of said day.

Present all the directors.

The president reported that Petroleum Securities Company a successor partial lessee of Seaboard Oil Company of Delaware under lease dated June 3, 1938, had requested, the written consent of this corporation to the assignment by the said Petroleum Securities Company, in voluntary dissolution, of its right, title and interest in the said lease unto:

Carrie Estalle Doheny, a widow, as to an undivided 33,434/1,000,000ths. interest;

Lucy Smith Battson, a married woman, as to an undivided 166,167/1,000,000ths. interest;

The heirs or devisees of E. L. Doheny, de-

## Exhibit A—(Continued)

ceased, subject to the administration of his estate, as to an undivided 166,573/1,000,000ths. interest;

The heirs or devisees of Edward Laurence Doheny, Jr., deceased, subject to the administration of his estate, as to an undivided 166,666/1,000,000ths. interest;

Lucy Smith Battson (formerly Lucy Smith Doheny) as trustee under that certain Declaration of Trust made by Edward Laurence Doheny and Carrie Estelle Doheny, and dated July 20, 1926, as to the undivided 166,666/1,000,000ths. interest.

upon condition that Carrie Estelle Doheny and Lucy Smith Battson, in their individual capacity, assume the obligations, of Petroleum Securities Company under said lease of June 3, 1938 and that Petroleum Securities Company further requested the written consent by this corporation to the assignment, if made by said assignees of Petroleum Securities Company, to a corporation organized under the laws of the State of California, with a paid-in Capital stock of \$1,000,000.00 or more, upon condition that such corporation, if formed, assume the obligations under the said lease assumed by the said Carrie Estelle Doheny and Lucy Smith Battson.

Thereupon on motion duly made and seconded, it was unanimously

Resolved, that the President and secretary of this corporation, be and they are hereby author-

## Exhibit A—(Continued)

ized for and on behalf of this corporation, to execute the written consent of this corporation to the assignment hereinabove referred to, a copy of which said assignment is attached to these minutes and marked Exhibit A; and the president and secretary were further authorized to do and perform all acts necessary or proper to effectuate the consent of this corporation to the matters and things hereinbefore referred to.

There being no further business before the meeting, the same on motion duly made and seconded adjourned.

LOUIS H. BROWNSTONE  
Secretary.

Approved

LOUIS E. GOODMAN  
President.

Pursuant to notice duly given, a meeting of the Board of Directors of Section Seven Corp., a California corporation, was held at the office of the corporation, in San Francisco, California, on Tuesday, October 25, 1938, at the hour of 9:30 o'clock A. M. of said day.

Present all the directors.

It appearing that sufficient funds were on hand for that purpose, on motion duly made and seconded, it was unanimously

Resolved that a dividend of \$16.00 per share be

## Exhibit A—(Continued)

forthwith paid to stockholders of this corporation of record as of the close of business on October 25, 1938.

There being no further business before the meeting, the same on motion duly made and seconded, adjourned.

LOUIS H. BROWNSTONE  
Secretary

Approved

LOUIS E. GOODMAN  
President.

Pursuant to notice duly given, a meeting of the Board of Directors of Section Seven Corp., a California corporation, was held at the office of the corporation, in San Francisco, California, on Monday, December 12, 1938, at the hour of 10 o'clock A. M. of said day.

Present all the directors.

The minutes of the previous meeting of the board of directors, were read and approved as read.

On motion duly made and seconded, it was unanimously

Resolved: That the American Trust Company be and it is hereby selected as a depositary for the funds of this corporation; that said funds shall be withdrawn from said depositary on the check of this Corporation signed by any two of the following officers of this corporation.

The President, any Vice President and the Sec-

## Exhibit A—(Continued)

retary, the Treasurer, any Assistant Secretary, any assistant treasurer, and that any two of said officers are authorized to endorse and deliver to the depositary for and in behalf of this corporation checks, drafts, bills of exchange, and other evidence of indebtedness, negotiable or non-negotiable;

Further Resolved: That said authority hereby conferred shall remain in force until written notice of the revocation thereof by the Board of Directors of this Corporation shall have been received by said depositary, and that the certification of the President or any Vice President and the Secretary of this Corporation as to the election and appointment of the officers so authorized shall be binding upon this corporation.

There being no further business before the meeting, the same on motion duly made and seconded adjourned.

LOUIS H. BROWNSTONE,  
Secy.

Approved

LOUIS E. GOODMAN  
Pres.

Pursuant to notice duly given, a meeting of the Board of Directors of Section Seven Corp., a California corporation, was held at the office of the corporation, in San Francisco, California, on Monday, January 30, 1939, at the hour of 2 o'clock P. M. of said day.

Present all the directors.

## Exhibit A—(Continued)

Mr. Goodman, the president, presided, and Mr. Brownstone, the secretary, acted as secretary of the meeting.

Directors Anixter and Ellis presented their resignations as directors, to the meeting, and on motion duly made and seconded, said resignations were duly accepted, and Harry E. Fisher and Louis Dessauer were elected directors to fill the vacancies caused by the resignations of Directors Anixter and Ellis, and being present, took their seats as directors.

On motion of director Nathan seconded by Director Dessauer the following resolution was unanimously adopted:

Resolved: That the president of this corporation be and he is hereby authorized and directed to file an application with the Corporation Commissioner of the State of California, requesting the elimination of condition A from the permit issued to this corporation by the said Corporation Commissioner, under date of April 14, 1938, which said condition A requires the issued shares of this corporation to be deposited in escrow, and for such other and further relief as may be meet and proper.

On motion of Director Nathan, seconded by Director Fisher, it was,

Resolved: That the regular meeting of the Board of Directors be held on the last Tuesday of each month, at 2:30 o'clock P. M. without further notice or call.

The president reported that the president and

## Exhibit A—(Continued)

secretary, at the request of the corporation's lessee, execute certain rights of way agreement for oil pipe lines, water pipe lines and telephone lines and roads over the corporation's property in Fresno County, California, and on motion duly made and seconded, all actions of the president and secretary in that regard were ratified, approved and confirmed.

The president presented a bill of Goodman and Brownstone for services rendered from July 1, 1938 to December 31, 1938 in the sum of \$1,000.00, and on motion duly made and seconded, said bill was approved and ordered paid.

There being no further business before the meeting the same on motion duly made and seconded, adjourned.

LOUIS H. BROWNSTONE  
Secretary

Approved

LOUIS E. GOODMAN  
President.

Pursuant to notice duly given, a meeting of the Board of Directors of Section Seven Corp., a California corporation, was held at the office of the corporation, in San Francisco, California, on Tuesday, February 28, 1939, at the hour of 2:30 o'clock P. M. of said day.

Present: Directors Nathan, Goodman, Brownstone, and Dessauer; Absent, Director Fisher.

Mr. Goodman, the president, presided, and Mr. Brownstone, the Secretary, acted as secretary.

## Exhibit A—(Continued)

On motion duly made and seconded, it was,

Resolved, that a dividend of \$6.00 per share be forthwith paid to the stockholders of this corporation of record as of the close of business on February 28, 1939, payable out of earned surplus to the extent thereof available and as to any balance out of depletion reserve.

It is further Resolved, that the officers of the corporation be and they are hereby authorized, without further action on the part of the Board of Directors, to pay monthly in the same manner such dividend as is proper, after making provision for the setting up of necessary and proper reserves.

There being no further business before the meeting, the same on motion duly made and seconded, adjourned.

LOUIS H. BROWNSTONE,  
Secretary.

Approved

LOUIS E. GOODMAN  
President.

[Endorsed]: Filed Jan. 15, 1942.

Whereupon counsel for plaintiff offered in evidence a copy of the profit and loss account and a statement of receipts and [17] disbursements of the corporation during the fiscal period in question, and without objection said document was received in evidence as plaintiff's exhibit #3.

## Exhibit A—(Continued)

## PLAINTIFF'S EXHIBIT No. 3

SECTION SEVEN CORP.  
PROFIT AND LOSS ACCOUNT

Year ended June 30, 1939

## Income

Royalties—oil .....	\$29,409.29
Royalties—gas .....	22.35

Total Income ..... \$29,431.64

## Expenses

Accountant's fee .....	460.75
Attorneys' fees .....	1,372.50
Miscellaneous office expense.....	25.08
Stationery and office supplies.....	12.62

## Taxes

California franchise .....	\$ 6,163.47
Federal capital stock.....	2,000.00
Fresno County land.....	34.91
	8,198.38

Telephone and telegraph..... 23.03

Total expenses ..... 10,092.36

Net Profit—before depletion..... \$19,339.28

Depletion allowance ..... 8,093.70

Net Profit to Surplus..... \$11,245.58

## ANALYSIS OF EARNED SURPLUS

Balance July 1, 1938.....	\$24,489.02
Add: Net profit for year ended June 30, 1939.....	11,245.58
	\$35,734.60

Deduct: Federal income tax (Corporate taxable fiscal year ended Oc- tober 31, 1938).....	\$14,752.31
Dividends paid .....	18,883.07
	32,635.38

Balance June 30, 1939..... \$ 3,099.22

## Exhibit A—(Continued)

Purchases—None

Orders—None

Commitments—None

Sales—oil and gas above

Agreements—Rights of way executed in order to avoid condemnation proceedings, as shown in the attached minutes.

As shown by the minutes of the meeting held on Oct. 10, 1939, the corporation consented to the assignment by Petroleum Securities Company, in voluntary dissolution, of its right, title and interest in and to the oil lease covering the property owned by the corporation to the stockholders of Petroleum Securities Company.

The foregoing consent was executed by the corporation at the request of Petroleum Securities Company, one of the lessees, solely for their convenience.

Contracts: None.

Acquisition of property for stock: None

### SECTION SEVEN CORP.

#### STATEMENT OF RECEIPTS AND DISBURSEMENTS

July 1, 1938 to June 30, 1939.

##### Receipts:

Royalties on oil and gas.....	\$22,994.63
Rights of way.....	81.58
Donated Capital surplus.....	352.71
Collection of advance to stockholder.....	30.30
Total Receipts .....	\$23,459.22
Balance Cash July 1, 1938.....	28,190.84
	\$51,650.06

##### Disbursements

Dividends paid .....	21,200.00
Federal income tax.....	6,876.16
Federal capital stock tax.....	1,000.00
State franchise tax.....	6,163.47
Taxes on real estate.....	34.91
Accountant's fees .....	460.75
Attorneys' fees .....	1,372.50
Attorneys' fees—cost of clearing title.....	515.92

## Exhibit A—(Continued)

Advance to stockholder.....		30.30
Miscellaneous office expense.....		25.08
Stationery .....		12.62
Telephone .....		23.03
		—————
		\$37,714.74
Balance cash June 30, 1939.....		13,935.32
		—————
		\$51,650.06
		—————

SECTION SEVEN CORP.  
COMPARATIVE BALANCE SHEET

	Balance Sheet July 1 1938	Balance Sheet June 30 1939	Increase of Decrease
<b>Assets</b>			
Cash in Bank.....	28,190.84	13,935.32	14,255.52
Accounts Receivable .....	—		
accrued royalties .....		6,437.01	6,437.01
†Land .....	102,791.88	103,226.22	434.34
Lease Costs .....	33,898.35	33,898.35	—
Organization .....	83.95	83.95	—
	—————	—————	—————
	164,965.02	157,580.85	7,384.17
	—————	—————	—————

## EXPLANATION OF CHANGES

†Attorneys' fees—to clear title—increase.....	\$515.92
Less: Rights of way granted—decrease.....	81.58
Net Increase .....	\$434.34
	—————

<b>Liabilities and Capital</b>			
Reserve for Federal Income tax .....	—	6,876.15	6,876.15
Reserve for Federal Capital Stock tax .....		1,000.00	1,000.00
*Reserve for Depletion (Fed- eral percentage allowance) 39,776.00	45,552.77	5,776.66	
Capital Capital stock .....	100,700.00	100,700.00	—

## Exhibit A—(Continued)

	Balance Sheet July 1 1938	Balance Sheet June 30 1939	Increase of Decrease
<b>Surplus</b>			
Donated .....	24,489.02	3,099.22	21,389.80
	<hr/>	<hr/>	<hr/>
	164,965.02	157,580.85	7,384.17
	<hr/>	<hr/>	<hr/>
*Depletion allowance for year July 1, 1938 to June 30, 1939—increase .....			\$8,093.70
Less: Dividends paid from percentage depletion.....			2,316.93
	<hr/>	<hr/>	<hr/>
Net Increase .....			\$5,776.77

See profit and loss account and analysis of surplus.

[Endorsed]: Filed Jan. 15, 1942.

Aside from the collection of royalties under the lease and the disbursal of these royalties by way of dividends to the stockholders, the only other corporate acts of any kind performed by the corporation during this period of years, were the execution of a number of rights-of-way to the County of Fresno, various other oil companies and the Pacific Gas & Electric Co. These rights-of-way were executed in accordance with the custom of oil companies to execute reciprocal rights-of-way to permit the development of an entire field without hindrance or delay of any kind and were not executed in return for any substantial consideration. They were executed at the request of the lessee to facilitate the development of the property and also to avoid the necessity of any condemnation proceeding being brought to acquire rights-of-way. The royalties which the corporation received during

## Exhibit A—(Continued)

the fiscal year in question under the terms of the lease were all cash payments made by the lessee to the corporation. This was true during the entire period of the life of the corporation, as well as during the fiscal year in question.

## Cross Examination

By Esther B. Phillips,

Assistant United States Attorney

Under the lease, plaintiff's exhibit #1, the lessor has an option to receive oil in kind, which can be exercised only once each year. The document speaks for itself. The option to take oil in kind has never been exercised by Section Seven Corp. There was no occasion for a formal notice to the lessee [18] whether or not the option would be exercised or would not be exercised, unless the option was exercised. In the absence of notice, the lessee is bound to pay only in cash. The lessee forwards the corporation a statement of royalties, plus a check for the previous month's royalty on the 20th day of the succeeding month. The royalty statement shows the amount of the production of oil and gas, the amount of the sales of oil and gas and the amount of royalties. If we desire, we have the opportunity to make a check or examination of the actual production records. At no time during the meetings of the Board of Directors, or at any meeting of the officers was there ever any discussion on whether we would accept royalties in cash or in kind. The ques-

## Exhibit A—(Continued)

tion of voting to accept royalties in cash never arose. We have never done anything except receive the cash. During this period we executed five separate rights-of-way, and on one occasion the Standard Oil Company paid us \$81.00 in return for the execution of the right-of-way. The right-of-way would have been executed anyway; they offered us this sum as a consideration and we did not refuse it. The \$81.00, I believe, was for one right-of-way. A right-of-way would be requested from either our lessee or ourselves. If the lessee wanted us to execute the right-of-way, we executed it. The papers would ordinarily be prepared by the person who desired the right-of-way and forwarded to us with a request for execution. We submitted it to the lessee and if the lessee approved it in writing we executed it. This is a reciprocal arrangement among the people in the oil business and a practice in the industry. It is to everybody's interest to be liberal about giving rights-of-way.

The formation of the corporation in the fall of 1937 was [19] handled as follows:

In 1937 we knew that we would be in a position to execute a lease of the property. When we acquired that knowledge we formed Section Seven Corp. and took deeds to the property from the various individuals, the individual owners. We executed a lease on one-half of the property and although the title was not yet clear the oil companies accepted that. Then in the midst of the partition suit, the

## Exhibit A—(Continued)

stock was issued and while we were in the middle of the partition suit the lease was reformed. It developed that the owners of five-sixths of the interests in this property were willing to go into the corporation and execute the lease, so as a result of the partition suit the corporation acquired a five-sixths interest in the property, the Superior Oil Company acquired a one-sixth interest and the property was partitioned in kind, and as part of that partition in kind we executed a new lease dated June 3rd., which covered the entire remaining five-sixths interest in the property. The private owners of the land, in effect, sold their land to the corporation and received payment in stock. The corporation was formed solely for the purpose of making this lease. Prior to the formation of the corporation, it was known that the lease would be executed. The corporation was never formed for the purpose of carrying on or engaging in any business other than the execution of this lease and thereafter the receipt of royalties from the land itself. It was formed to receive the benefits and advantages of the lease.

Whereupon counsel for defendant offered in evidence the original stock tax assessment and without objection the said assessment was received in evidence and marked defendant's [20] exhibit A.

Exhibit A—(Continued)

DEFENDANT'S EXHIBIT A  
UNITED STATES OF AMERICA  
Treasury Department  
Washington

December 3, 1940.

Pursuant to the provisions of Section 661, Chapter 17, Title 28 of the United States Code (Section 882 of the Revised Statutes of the United States), I hereby certify that the annexed is a true copy of Return of Capital-Stock Tax for year ended June 30, 1939, executed August 22, 1939, filed by Section Seven Corporation, San Francisco, California, on file in this Department.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]

S. H. MARKS

Act. Chief Clerk,

Treasury Department

By S S F J P W H

M W W W B W M F

[Endorsed]: Filed Jan. 15, 1942.

*768-914*

(For Use of Collector)

1ST CALIF

(Collection district)

SEPT 1939

(Month) (Year)

4382 0

(Page) (Line)

**1939 RETURN  
OF  
CAPITAL-STOCK TAX  
For Year Ending June 30, 1939  
DOMESTIC CORPORATIONS**

(Chapter 6, Internal Revenue Code, as amended)

This return must be filed, in triplicate, and received with remittance by the Collector for your district on or before the due date. (See instruction 20, page 10.)

To be stamped above by Collector,  
showing district and date received

1. Name **Section Seven Corp.**  
(Print name of corporation, joint-stock company, or association)
2. Address **615 Russ Blvd., San Francisco California**  
(The address must be that of the principal place of business. Give "street and number," "city or town," and "state")
3. Incorporated or organized in State of **California** Month **November** Day **19** Year **1937**
4. Was a 1938 capital-stock tax return filed? **yes** Name under which filed. (If different, attach statement explaining fully.)  
same
5. Date of close of last income-tax year ended prior to July 1, 1939 **October 31, 1938** Was an income-tax return filed for that year? **yes** Name under which filed **same** (District **1st Calif**)  
 If the corporation is newly organized and has not established an income-tax year, state date of organization
6. Nature of business in detail **Land investment**
7. Name of parent company, if any **none** (District )
8. Name of subsidiary, if any **none** No. shares held  (District )  
(If more than one, attach list and state number of shares held by parent, also districts where filed)

**DECLARED VALUE OF CAPITAL STOCK**

Corporations enumerated in instruction 10 on page 10 must report a definite and unqualified declared value in this block. (See also instructions 11 to 13.) (Do not use this block for elective declaration year—see block 10 below.)

**ADJUSTED VALUE—ELECTIVE DECLARED VALUE**

Corporations described in instruction 9 on page 9 MUST complete Schedules I and II and enter the adjusted value (last item in Schedule I) in Part A of this block. Any corporation in this class may elect to delinquent and pay tax on, a value in excess of the adjusted value. If such election is made, a definite and unadjusted value MUST be entered in Part B of this block. (See instructions 14 and 15.)

**PART A  
ADJUSTED VALUE  
OF CAPITAL STOCK**

(Last item of Schedule I,  
page 2)

**\$1,051,939.67**

**PART B  
ELECTIVE DECLARED  
VALUE OF  
CAPITAL STOCK**

(Any amount declared below must  
be in excess of adjusted value  
disclosed by Schedule I)

**EXEMPTIONS.**—The law provides for exemption from the tax only on the grounds indicated below. Corporations claiming exemption must (1) complete block 9 of 10 above whenever it is applicable, (2) check the appropriate block below, and (3) submit with the return the evidence specified under the block checked.

- Corporation exempt from income tax under section 101, Internal Revenue Code. Furnish information required by instruction 17.
- Insurance company subject to tax under sections 101, 204, 207, Internal Revenue Code. State which section
- Corporation not doing business. Furnish information required by instruction 19.

**CORPORATE**

FOR USE OF TAXPAYER

FOR USE OF DEPARTMENT

2. Taxable value reported in item 9 or 10	<i>77148</i>	1 051 939 67	\$	
3. Tax at rate of \$1 for each full \$1,000 in item 12 (omit cents)		1 051	xxxx	xxxx
4. Penalty of ..... percent for delinquency in filing return				
5. Interest at 6 percent per annum				
6. Total tax, penalty, and interest		1 051 00		

We, the undersigned *Louis E. Brownstone*,  
(Name of president, vice president, or other principal officer)

*Pres.*  
(Title)

and *Louis H. Brownstone, TREAS.*,  
(Name of treasurer, assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return, including any accompanying schedules and statements, has been examined by him and is, to the best of his knowledge and belief, a true and complete return, made in good faith, for the taxable year stated, pursuant to Chapter 6, Internal Revenue Code, and Regulations 64 (1938 edition).

Sworn to and subscribed before me this *23* day of *Sept*, 1939, at *San Francisco, Calif.* and *signed* *Louis H. Brownstone, Pres.*  
(Signature of officer administering oath) (Signature) (Title)

**NOTARIAL  
SEAL**

(Official capacity)

**CORPORATE  
SEAL**

PAGE 1

2-17863

*A-1*







## Exhibit A—(Continued)

Whereupon plaintiff and defendant rested and the hearing concluded.

The foregoing evidence, together with the exhibits mentioned, constitutes all of the evidence material to the issues raised in this review and is to be included in the record on review to be certified in this proceeding. There are to be attached hereto and made a part hereof, on transmission of the record from the Clerk of the District Court to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, all of the exhibits offered by plaintiff and defendant and admitted in evidence, and hereinbefore referred to.

Dated: July 17, 1942.

LOUIS E. GOODMAN

LOUIS H. BROWNSTONE

Attorneys for Plaintiff

The foregoing statement of evidence is approved by the undersigned, as attorney for defendant.

Dated: July 17, 1942.

FRANK J. HENNESSY

Attorney for Defendant.

[Endorsed]: Filed Jul. 18, 1942. [21]

[Title of District Court and Cause.]

**ORDER**

Good cause appearing therefor, it is hereby

Ordered that the original exhibits heretofore introduced at the trial of this action be sent to the Circuit Court of Appeals in lieu of copies thereof, as part of the record on appeal in this action, to be returned to this Court upon the final disposition of this cause on appeal.

Dated : July 20th, 1942.

MICHAEL J. ROCHE  
Judge

[Endorsed] : Filed Jul. 20, 1942. [22]

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[Title of District Court and Cause.]

**ORDER EXTENDING TIME TO FILE  
RECORD ON APPEAL AND DOCKET ACTION**

Good Cause appearing therefor, it is hereby

Ordered that the time within which the record on appeal may be filed with the Clerk of the Circuit Court of Appeals for the Ninth Circuit, and the action docketed in the Circuit Court of Appeals for the Ninth Circuit be and the same is hereby extended to, to and including September 27, 1942.

Dated : August 26th, 1942.

A. F. ST. SURE  
Judge

[Endorsed] : Filed Aug. 26, 1942. [23]

[Title of District Court and Cause.]

SECTION SEVEN CORP., a corporation,

vs.

CLIFFORD C. ANGLIM, Collector of Internal  
Revenue for the First District of California  
DOCKET ENTRIES  
Docket No. 21651-W

1940

Sept. 23—1. Filed complaint, issued summons.

24—2. Filed summons ex returned 9-23.

Nov. 19—3. Filed ord. ex deft's. time to file an-  
swer.

Dec. 6—4. Filed answer of deft.

10—5. Filed notice of motion to set for trial.

1941

Jan. 6— Ord. mo. to set for trial dropped from  
calendar.

June 2— Ord. set for trial Dec. 4, 1941.

Dec. 4— Ord. trial con. to Jan. 6, 1942.

1942

Jan. 6— Ord. case to trial on trial calendar, etc.

7— Ord. con. to Jan. 9 for trial

9— Ord. case to trial on trial calendar, etc.

12— Ord. case to trial on trial calendar, etc.

13— Ord. reset for trial Jan. 15

15— Trial before the Court, Norcross, J.,  
evid. intro., briefed in 10-10-5 days.

21— Filed 1 Vol. of Reporter's Transcript.

22—6. Filed pltff's opening memo.

Feb. 4—7. Filed deft's. brief.

1942

- Feb. 10—8. Filed pltff's reply memo.  
26— Ord. case submitted to Judge Norcross  
Mailed notice.  
28— Ord. case dismissed and judgt. enter  
in favor of deft. and for costs.  
Mailed notice.  
9. Filed decision.  
Mar. 6— Lodged findgs.  
Apr. 27—10. Filed findgs.  
11. Filed judgt. in favor of deft. with  
costs. Mailed no. Made Judgt. Roll.  
12. Filed memo. of costs and disburse-  
ments.  
July 18—13. Filed no. of appeal. Mailed no.  
14. Filed cost bond on appeal.  
15. Filed stip. re. contents of record on  
appeal.  
20—16. Filed ord. allowing exhibits to be  
transmitted to CCA.  
Aug. 26—17. Filed order ex. time docket appeal.

[24]

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District Court of the United States  
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL

I, Walter B. Maling, Clerk of the District Court  
of the United States, for the Northern District of  
California, do hereby certify that the foregoing 24

pages, numbered from 1 to 24, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of Section Seven Corp., a Corp., vs. Clifford C. Anglim, Collector of Internal Revenue for the First District of California No. 21651-W, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Three dollars and thirty-five cents (\$3.35) and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 15th day of September, A. D. 1942.

[Seal]

WALTER B. MALING,

Clerk

WM. J. CROSBY

Deputy Clerk [25]

[Endorsed]: No. 10253. United States Circuit Court of Appeals for the Ninth Circuit. Section Seven Corp., a corporation, Appellant, vs. Clifford C. Anglim, Collector of Internal Revenue for the First District of California, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed September 17, 1942.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

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In the United States Circuit Court of Appeals  
For the Ninth Circuit

No. 10253

SECTION SEVEN CORP., a corporation,  
Plaintiff and Appellant

vs.

CLIFFORD C. ANGLIM, etc.,  
Defendant and Respondent.

#### STATEMENT OF POINTS

To the Honorable Judges of the United States Circuit Court of Appeals for the Ninth Circuit.

The following are the points upon which appellant intends to rely on this appeal.

## I.

The District Court erred in holding and deciding that appellant was carrying on or doing business during the capital stock tax year ending June 30, 1939.

## II.

The District Court erred in holding and deciding that appellant was subject to the payment of the declared value capital stock tax imposed by Section 1200 of the Internal Revenue Code of 1939 as amended for the year commencing July 1, 1938 and ending June 30, 1939.

## III.

The District Court erred in holding and deciding that the sum of \$1,051.00, declared value capital stock tax imposed by Section 1200 of the Internal Revenue Code of 1939 for the year commencing July 1, 1938 and ending June 30, 1939, was not erroneously and illegally assessed and collected by respondent from appellant.

## IV.

The Conclusions of Law and the Decision of the District Court are not supported by any substantial evidence and the decision of the District Court is not in accordance with law.

Dated : September 17th, 1942.

LOUIS E. GOODMAN

LOUIS H. BROWNSTONE

Attorneys for Appellant.

[Endorsed]: Filed Sep. 18, 1942.

[Title of Circuit Court of Appeals and Cause.]

**DESIGNATION OF PORTIONS OF RECORD  
TO BE PRINTED ON APPEAL**

Appellant hereby designates for inclusion in the printed record on appeal the entire record as filed in the above entitled Court.

Dated: September 17th, 1942.

LOUIS E. GOODMAN,  
LOUIS H. BROWNSTONE  
Attorneys for Appellant.

[Endorsed]: Filed Sep. 18, 1942.